

AGENDA REQUEST

Applicant:	Board of Supervisors Meeting Date:
Rodney Smith, Smith – Midland Corporation	February 19, 2002
Staff Lead:	Department:
Brian Davis	Community Development
Topic: SPECIAL EXCEPTION #SE0-CR-10, SMITH – MIDLAND PROPERTY, FLOODPLAIN USES (EXISTING FILL), CEDAR RUN MAGISTERIAL DISTRICT	

The applicant is seeking a Special Exception, pursuant to Article 5-2300 of the Zoning Ordinance, to allow existing fill material to remain within the floodplain. The fill area is currently used as parking for Smith – Midland employees, and it is estimated that approximately 0.29 acres of the parking area is located in the floodplain. The applicant's engineers have prepared a revised floodplain study intended as an update to the Federal Emergency Management Agency's (FEMA) 1979 floodplain maps. With the County Engineer's consent, the FEMA maps would be revised to show the new floodplain limits.

The area currently under special exception consideration is a 0.29-acre portion of a 12-acre parcel owned by the Smith – Midland Corporation on the west side of Licking Run in the Midland Service District. The property is zoned I-1 (Industrial Park) and has an existing industrial use. In March of 2001, the Board of Zoning Appeals upheld a determination made by the Zoning Administrator that the applicant was in violation of the Zoning Ordinance by placing fill in the floodplain. The two available options to the applicant were to remove the fill or obtain special exception approval from the Board of Supervisors to allow the fill area to remain. The Planning Commission recommended denial of this application based upon inadequate technical information at the time to make a reasonable recommendation.

The Board of Supervisors continued consideration of this request and deferred action until the February meeting. As a reminder, the Board of Supervisors held a public hearing on this request on September 17, 2001, and deferred any decision at the request of the applicant so that revised floodplain study information could be presented to the County Engineer.

Update Since the Board of Supervisors' January 22, 2002 Meeting

Since the January meeting, the County Engineer's office scheduled and completed a field visit to the site for the purpose of discussing potential options to the situation with the applicant. The County Engineer proposes several practical site work recommendations which would allow some fill to remain in the floodplain area for use by the applicant, while also lowering the floodplain elevation from its present day conditions and minimizing off-site impacts. (See Attachment 1).

On February 7, 2002, Supervisor Graham and County staff met with the applicant on-site to review these proposed recommendations. At this meeting, the applicant presented his own suggested resolution to the problem, which would involve the removal of the current "low water" crossing supported by culverts and replace that structure with a bridge span. That span would allow a less restricted channel for the waters of Licking Run to move through the subject property and minimize the potential for off-site flooding.

Either the County's or the applicant's options, or some combination of both elements, would provide resolution to the floodplain issue. The Board of Supervisors now is in a position to approve this special exception application, subject to development conditions that would improve the existing floodplain conditions. Supervisor Graham and the applicant are continuing to meet to finalize the required corrective measures. The conditions of approval will be available for the Board of Supervisors' consideration at the February 19, 2002 meeting.

Financial Impacts Analysis:

No financial impact analysis was required with this request.

Identify any other Departments, Organizations or Individuals that would be affected by this request:

None

Attachments

1. Memo from County Engineer's Office
2. Previous Staff Materials

SUBSTITUTE RESOLUTION FOR 6:30 P.M. MEETING
A RESOLUTION TO APPROVE SPECIAL EXCEPTION #SE01-CR-10
RODNEY SMITH FLOODPLAIN FILL APPLICATION

PIN 7900-75-6202-000

WHEREAS, Rodney Smith, owner/applicant, has filed an application to allow for existing fill to remain in a floodplain under the provisions of Articles 5-2300 of the Fauquier County Zoning Ordinance; and

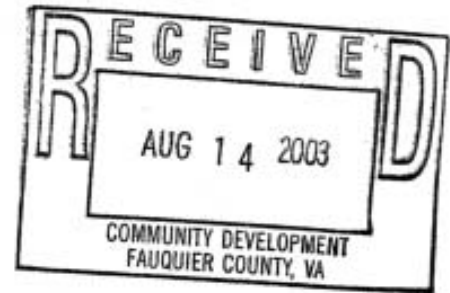
WHEREAS, the Planning Commission held a public hearing on this application on May 31, 2001 and made a recommendation on July 26, 2001; and

WHEREAS, the Board of Supervisors has considered the written and orally presented information of the applicants and conducted a public hearing on this application; and

WHEREAS, the Board of Supervisors has determined that the application satisfies the general standards of Article 5-006 and the additional standards for floodplain uses at Section 5-2300 of the Zoning Ordinance; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 19th day of February 2002, That the application by Rodney Smith to allow for fill to remain in a floodplain on Parcel Identification Number 7900-75-6202-000 be, and is hereby approved, subject to the following conditions:

1. Within 30 days of the approval date, the applicant shall meet with the County Engineer to develop an interim plan involving the removal of sediment deposits from the creek bottom and removal of obstructions from the southwest creek bank.
2. Within 90 days of the approval date, the applicant shall complete the work outlined in the plan developed as a result of condition #1 above in accordance with all applicable federal, state and county requirements.
3. Within 18 months of the approval date, the applicant shall remove the existing "low water crossing" and replace it with a bridge structure that spans Licking Run. The span shall be built in accordance with all applicable federal, state and local regulations to specifications approved by the County Engineer. In the event that it cannot be hydraulically proven that the bridge structure will lower the floodplain elevations to Zoning Ordinance specifications, then the applicant shall complete the remediation efforts outlined in the January 23, 2002 memorandum from Jennifer Kilanski, P.E., of the County Engineer's office.
4. The applicant shall obtain a Conditional Letter of Map Revision (CLOMR) from the Federal Emergency Management Agency (FEMA) within six (6) months of the approval date. The applicant shall request a Letter of Map Revision (LOMR) within 90 days of completion of the channel improvements, including the bridge. Bonding will be required to cover the amount of the LOMR fee, the as-built plans and any other requirements as outlined in FEMA's CLOMR.



Statement of Justification

At a public hearing of the Fauquier County Board of Supervisors on February 19, 2002, Special Exception #01-CR-10, to allow for existing fill for a parking lot area to remain in a floodplain was approved. The approval was subject to four (4) conditions. Condition # 3 provided:

Within 18 months of the approval date, the applicant shall remove the existing "low water crossing" and replace it with a bridge structure that spans Licking Run. The span shall be built in accordance with all applicable federal, state and local regulations to specifications approved by the County Engineer.

Condition # 4 provided:

The applicant shall obtain a Conditional Letter of Map revision from the Federal Emergency Management Agency within 6 months of the approval Date. The applicant shall request a letter of Map Revision within 90 days of completion of the channel improvements, including the bridge.

Conditions 3 and 4 continues to be ongoing. During the time, several exchanges of information between FEMA, Engineering representatives for Smith-Midland Corp and the office of the County Engineer have occurred in regards to condition #4. It now appears that all requirements for a CLOMR have been satisfied and final disposition should be forthcoming.

Application to replace the low water crossing bridge was made to DEQ, the Corp of Engineers and the Virginia Marine Resources Commission. Both DEQ and the Corp of Engineers did not require permitting. Permitting is required by the Marine Resources Commission and is now pending. Permitting must be obtained in order to satisfy Condition #3.

As a result of the amount of time required processing the project through a number of agencies, it is requested that The Board of Supervisors allows for an extension on the timetable to satisfy the conditions of approval.